

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

GEORGE LEE TUCKER, II, #786947 §  
VS. § CIVIL ACTION NO. 6:14cv659  
BRAD LIVINGSTON, ET AL. §

ORDER OF DISMISSAL

Plaintiff George Lee Tucker, II, an inmate confined at the Coffield Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed this lawsuit pursuant to 42 U.S.C. § 1983. The complaint was directly assigned to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation (docket entry #14) concluding that the case should be dismissed without prejudice for want of prosecution and failure to obey an order. Tucker has filed objections.

Tucker began the lawsuit by filing an original complaint and a motion for leave to proceed *in forma pauperis*. He subsequently submitted an application to proceed *in forma pauperis* and an *in forma pauperis* data sheet (docket entry #6). Based on the information provided to the Court, Tucker was ordered to pay an initial partial filing fee of \$.65. It is noted that his *in forma pauperis* data sheet reveals that he had \$3.29 in his trust fund account. The Plaintiff filed a response (docket entry #11) complaining that he should not be required to pay the initial partial filing fee. He specifically argued that litigants should not be required to give up their last dollar and make themselves wholly destitute. Magistrate Judge Mitchell then issued the Report and Recommendation,

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Tucker to the Report, the Court is of the opinion

that the findings and conclusions of the Magistrate Judge are correct and that Tucker's objections lack merit. The initial partial filing fee assessed in this case is consistent with the statutory requirements of 28 U.S.C. § 1915. Tucker's complaints to the contrary and his submission of postage stamps does not satisfy the requirement to pay the initial partial filing fee. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the Report and Recommendation (docket entry #14) is **ADOPTED**. It is also **ORDERED** that the civil rights complaint is **DISMISSED** without prejudice for want of prosecution and failure to obey an order. Fed. R. Civ. P. 41(b); Rule 41, Local Rules for the Eastern District of Texas. It is finally

**ORDERED** that all motions not previously ruled on are hereby **DENIED**.

**It is SO ORDERED.**

**SIGNED** this 14th day of October, 2014.



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MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE